IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

TRC.No. 439 of 2000()
{AIT NO.236/96 OF THE AGRICULTURAL INCOME TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM}

PETITIONER:

STATE OF KERALA, REP. BY
DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI.V.V.ASHOKAN

RESPONDENT:

CHERIYAN THOMAS, ***(DIED)**
POOPALLY, ALAPPUZHA.

ADDITIONAL RESPONDENTS:

1. JOLLY THOMAS (WIFE), POOPPALLY,
EAST OF KANIYAMKULAM JUNCTION,
SANATHANAPURAM P.O.,
ALAPPUZHA. 688 003.

2. DILIP CHERIAN THOMAS (SON), POOPPALLY,
EAST OF KANIYAMKULAM JUNCTION,
SANATHANAPURAM P.O.,
ALAPPUZHA. 688 003.

3. GEORGE THOMAS (SON), POOPPALLY,
EAST OF KANIYAMKULAM JUNCTION,
SANATHANAPURAM P.O.,
ALAPPUZHA. 688 003

ADDITIONAL RESPONDENTS 1 TO 3 ARE IMPLEADED AS LEGAL REPRESENTATIVES OF THE DECEASED RESPONDENT VIDE JUDGMENT DTD. 13.6.2007.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
SMT.MARIAM MATHAI

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

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C.M.P.No.6222 of 2000,
I.A.No. 1999 of 2006
& T.R.C.NO.439 OF 2000

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Dated this the 13th day of June, 2007.

JUDGMENT

H.L.DATTU, C.J.

I.A.No. 1999 of 2006

The prayer made in this application is not opposed by the other side. Therefore, the prayer made in the application is allowed. Registry is directed to amend the cause title suitably forthwith.

C.M.P.No.6222 of 2000

The delay in filing the revision petition is condoned.

T.R.C.NO.439 OF 2000

Since the legal issue raised in this Tax Revision case is squarely covered by the decision of this court in **Keshava Bhat v. State of Kerala & Ors. {1999) 7 K.T.R. 128}**, though the matter is posted in the orders list, it is taken up for final hearing.

2. This revision petition is filed against the orders passed by the Kerala Agricultural Income Tax Appellate Tribunal, Kottayam in A.I.T.No.236/96 dated 19.4.2000 for the assessment year 1993-94.

3. The revenue has raised the following questions of law for our consideration and decision. They are as under:

> "(a) Is not the Tribunal in error in holding that tenants-in-common is entitled to compounding method of assessment de

hors the amendment introduced in section 13 with effect from 1.4.1994?

(b) Is not the ratio laid down in (1999) 7 Ktr 128 requires reconsideration in as much as it has not laid down the law correctly? Sub-Section 9B was introduced in section 13 only with effect from 1.4.94 enabling the tenants in common also to avail the compounding method of assessment and when that provision has not been made any retrospective effect, is the Tribunal correct in law in holding that compounding method of assessment is available to tenants-in-common as well irrespective of the said amendment?"

In our opinion, in view of the law laid down in **Keshava Bhav. State of Kerala & Ors. {1999) 7 K.T.R. 128}**, the questions law require to be answered against the revenue and in favour of the assessee. Therefore, this Tax Revision Case deserves to be rejected and it is rejected. Ordered accordingly.

Sd/-
H.L.DATTU
CHIEF JUSTICE

Sd/-
K.T.SANKARAN
JUDGE

sk/

//true copy//

P.S. To Judge